

## REMARKS

### INTRODUCTION

In accordance with the foregoing, claims 1, 2, 6, 8-15, and 17 have been amended and claims 3-5, 7, and 16 have been cancelled. Claims 1, 2, 6, 8-15, and 17 are pending and under consideration.

### REJECTION UNDER 35 U.S.C. §102

On pages 2-4, claims 1, 9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,701,739 (Morse).

Although Morse discusses a refrigeration system, this refrigeration system does not relate to an air conditioner. Morse discusses a non-analogous art of a refrigerator. The present invention is related to an outdoor unit for an air conditioner.

Morse shows an alleged support member 72 in Fig. 8. However, Morse fails to disclose, for example, "...an upper reinforcing portion connected between an upper surface of the support portion and an inner surface of the fixing portion to separate the lower end of the outdoor heat exchanger from the fixing portion" as recited in amended, independent claims 1, 9, 11, and 12.

With respect to the intended use limitations on pages 2-4 of the Office Action, the Examiner asserts that the features of claims 1, 9, 11, and 12 are considered by the Examiner to be functional limitations, i.e., intended use limitations. As a result, it appears that the Examiner has not fully considered these features, and has not shown a reference that discloses or suggests these features. The Examiner appears to indicate that more structure must be recited for such features to be considered.

Please note that, as specifically indicated by MPEP 2173.05(g), "There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper."

Moreover, as indicated by MPEP 2173.05(g), "A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the art in the pertinent art in the context in which it is used."

MPEP 2173.05(g) further indicates "A functional limitation is often used in association with an element ... to define a particular capability or purpose that is served by the recited element."

Withdrawal of the foregoing rejections is respectfully requested.

On pages 5-8, claims 1, 3, 5-9, 11, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,497,255 (Adams et al. – hereinafter Adams).

On page 5 of the Office Action, the Examiner alleges that Adams shows a space between a lower end of the outdoor heat exchanger and the bottom panel of the cabinet (as seen in Fig. 6 of Adams). Fig. 6 shows the alleged outdoor heat exchanger 30 *directly* contacting the alleged bottom panel 35. Fig. 1 also shows the outdoor heat exchanger 30 *directly* on the bottom panel 35 of the air-handling unit. Col. 2, lines 58-65 of Adams discusses:

Depending on whether the unit is providing cooling or heating to a comfort area, the coil can produce condensate that will be **disposed upon the floor panel immediately beneath the coil.** The floor panel of the present invention is designed to both support the additional weight of the coil and collect and rapidly remove the moisture from the unit, as well as providing a thermal barrier to impede the flow of heat into and out of the unit (*emphasis added*).

Additionally, Adams discusses the floor panel is internally reinforced so that the weight of the heat exchanger is transferred onto the structural elements of the unit framework, thus eliminating the need for the construction of external brackets or the like (col. 4, lines 8-13). Thus, Adams does not disclose a space between the lower end of the outdoor heat exchanger and the bottom panel.

Therefore, Adams does not disclose "... a space between a lower end of the outdoor heat exchanger and the bottom panel" as recited in amended, independent claims 1 and 11. Adams fails to disclose, "...a support member separating a lower end of the outdoor heat exchanger from a seat portion of the bottom panel" as recited in amended, independent claim 9.

#### REJECTION UNDER 35 U.S.C. §103

On pages 8-9, claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morse in view of U.S. Patent No. 4,416,327 (Nakada et al. – hereinafter Nakada).

On page 7, the Examiner asserts that Nakada makes up for the deficiencies of Morse. Although Nakada discusses an air conditioning apparatus, this apparatus does not relate to "...an upper reinforcing portion connected between an upper surface of the support portion and an inner surface of the fixing portion to separate the lower end of the outdoor heat exchanger from the fixing portion" as recited in amended, independent claim 1. Therefore, Nakada cannot be relied upon to cure the deficiencies of Morse.

On page 9, claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. in view of Nakada.

Claims 2 and 4 depend from claim 1 and includes all of the features of that claim plus

additional features, which are not taught or suggested by the cited references. Therefore, for at least these reasons, it is respectfully submitted that claims 2 and 4 are also patentably distinguished over the cited references.

On pages 9-10, claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0052683 (Kim) in view of Nakada.

On page 10 of the Office Action, the Examiner acknowledges that Kim does not disclose "a heat insulating material." Kim discusses that the condensate water tray 10 in a conventional air conditioner is made of Styrofoam (Paragraph 11). Styrofoam is an insulating foam that resists moisture. However, Kim teaches away from the use of Styrofoam in the following passage:

The strength of the condensate water tray 10 [using Styrofoam] is relatively small, so the condensate water tray 10 may be easily damaged during assembly. Additionally, when the condensate water tray 10 has been used for a long time, the adhesive force of the sealing member attached to the lower surface of the base plate 11 is weakened, thereby causing cold condensate water to infiltrate into the space between the condensate water tray 10 and the base plate 11. As a result, there occurs a problem in which dew may be formed on the exterior surface of the indoor side of the base plate 11 (see: Para. 11).

Thus, Kim teaches away from the use of "...a support member made of heat insulating material" as recited in amended, independent claim 10.

On page 10, the Examiner asserts that Nakada makes up for the deficiencies of Kim. The teachings of Nakada would not apply to Kim because Kim teaches away from the use of insulating materials, such as Styrofoam, specifically teaching away from using insulating materials in the alleged support member 50.

On page 11, claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morse in view of Nakada et al. It is respectfully submitted that Morse fails to disclose, "...an upper reinforcing portion connected between an upper surface of the support portion and an inner surface of the fixing portion to separate the lower end of the outdoor heat exchanger from the fixing portion" as recited in amended, independent claim 12, which claim 17 depends from. Also, Morse does not disclose from an outdoor unit for an air conditioner. As discussed above, Morse discusses a refrigeration system, which does not relate to an air conditioner.

Thus, Morse does not disclose the features of claim 17.

The Office Action acknowledges on page 11 of the Office Action that Morse does not disclose "a heat insulating material." On page 11, the Examiner asserts that Nakada makes up for the deficiencies of Morse. However, the deficiency addressed by the Office Action does not correspond to the above deficiencies.

Therefore, Nakada cannot be relied upon to cure the deficiencies of Morse.

Withdrawal of the rejections is respectfully requested.

#### ALLOWABLE SUBJECT MATTER

Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. These claims have been rewritten into independent form. Thus, claims 13-15 are allowable.

#### CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

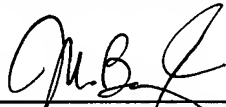
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 8-20-06

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